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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

9 Luis Gutierrez-Valencia,

10 Plaintiff,

11 v.

12 Charles L. Ryan, et al.,

13 Defendants.

14 No. CV 20-00376-PHX-JAT (DMF)

15 **ORDER**

16 On February 18, 2020, Plaintiff Luis Gutierrez-Valencia, who is confined in the  
17 Arizona State Prison Complex-Eyman in Florence, Arizona, filed a “Request for  
18 Acceptance of Non-Authorized Forms and/or Complaint and/or Waivers Requests for  
19 Plaintiff,” lodged a pro se civil rights Complaint, and filed an Application to Proceed In  
20 Forma Pauperis. In a February 26, 2020 Order, the Court denied the Request for  
21 Acceptance, granted the Application to Proceed, and gave Plaintiff thirty days to file a  
complaint on a court-approved form.

22 On March 26, 2020, Plaintiff filed his Complaint (Doc. 9). The Court will dismiss  
23 the Complaint with leave to amend.

24 **I. Statutory Screening of Prisoner Complaints**

25 The Court is required to screen complaints brought by prisoners seeking relief  
26 against a governmental entity or an officer or an employee of a governmental entity. 28  
27 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff  
28 has raised claims that are legally frivolous or malicious, that fail to state a claim upon which

1 relief may be granted, or that seek monetary relief from a defendant who is immune from  
2 such relief. 28 U.S.C. § 1915A(b)(1)–(2).

3 Rule 8(a) of the Federal Rules of Civil Procedure requires a “short and plain  
4 statement of the claim.” Fed. R. Civ. P. 8(a)(2). Rule 8(d)(1) states that “[e]ach allegation  
5 must be simple, concise, and direct.” A complaint having the factual elements of a cause  
6 of action scattered throughout the complaint and not organized into a “short and plain  
7 statement of the claim” may be dismissed for failure to satisfy Rule 8(a). *See Sparling v.*  
8 *Hoffman Constr. Co.*, 864 F.2d 635, 640 (9th Cir. 1988); *see also McHenry v. Renne*, 84  
9 F.3d 1172 (9th Cir. 1996). It is not the responsibility of the Court to review a rambling  
10 narrative in an attempt to determine the number and nature of a plaintiff’s claims.

11 Plaintiff’s four-count Complaint violates Rule 8 of the Federal Rules of Civil  
12 Procedure. Plaintiff presents a rambling and disjointed collection of facts dispersed  
13 throughout the four counts and a “Preliminary Statement.” Because the Court cannot  
14 meaningfully review Plaintiff’s Complaint, as required by 28 U.S.C. § 1915A(a), the Court  
15 will dismiss it with leave to amend.

16 **II. Leave to Amend**

17 For the foregoing reasons, Plaintiff’s Complaint will be dismissed for failure to  
18 comply with Rule 8 of the Federal Rules of Civil Procedure. Within 30 days, Plaintiff may  
19 submit a first amended complaint to cure the deficiencies outlined above. The Clerk of  
20 Court will mail Plaintiff a court-approved form to use for filing a first amended complaint.  
21 If Plaintiff fails to use the court-approved form, the Court may strike the amended  
22 complaint and dismiss this action without further notice to Plaintiff.

23 Plaintiff must clearly designate on the face of the document that it is the “First  
24 Amended Complaint.” The first amended complaint must be retyped or rewritten in its  
25 entirety on the court-approved form and may not incorporate any part of the original  
26 Complaint by reference. **Plaintiff may include only one claim per count.**

27 A first amended complaint supersedes the original Complaint. *Ferdik v. Bonzelet*,  
28 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d

1 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat the original Complaint  
2 as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the  
3 original Complaint and that was voluntarily dismissed or was dismissed without prejudice  
4 is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa County*, 693  
5 F.3d 896, 928 (9th Cir. 2012) (en banc).

6 If Plaintiff files an amended complaint, Plaintiff must write short, plain statements  
7 telling the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name  
8 of the Defendant who violated the right; (3) **exactly what that Defendant did or failed to**  
9 **do;** (4) how the action or inaction of that Defendant is connected to the violation of  
10 Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered because of  
11 that Defendant's conduct. *See Rizzo v. Goode*, 423 U.S. 362, 371-72, 377 (1976).

12 Plaintiff must repeat this process for each person he names as a Defendant. If  
13 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific  
14 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for  
15 failure to state a claim. **Conclusory allegations that a Defendant or group of**  
16 **Defendants has violated a constitutional right are not acceptable and will be**  
17 **dismissed.**

18 Plaintiff should take note that a suit against a defendant in his or her *individual*  
19 capacity seeks to impose personal liability upon the official. *Kentucky v. Graham*, 473  
20 U.S. 159, 165-66 (1985). For a person to be liable in his or her individual capacity, “[a]”  
21 plaintiff must allege facts, not simply conclusions, that show that the individual was  
22 personally involved in the deprivation of his civil rights.” *Barren v. Harrington*, 152 F.3d  
23 1193, 1194 (9th Cir. 1998). “Because vicarious liability is inapplicable to *Bivens* and  
24 § 1983 suits, a plaintiff must plead that each Government-official defendant, through the  
25 official’s own individual actions, has violated the Constitution.” *Ashcroft v. Iqbal*, 556  
26 U.S. 662, 676 (2009).

27 Plaintiff should also take note that a plaintiff cannot maintain a lawsuit for *damages*  
28 against Arizona Department of Corrections (ADC) employees in their *official* capacities.

1        See *Hafer v. Melo*, 502 U.S. 21, 27 (1991) (“State officials sued for damages in their official  
2 capacity are not ‘persons’ for purposes of the suit because they assume the identity of the  
3 government that employs them.”); see also *Gilbreath v. Cutter Biological, Inc.*, 931 F.2d  
4 1320, 1327 (9th Cir. 1991). A plaintiff may maintain a lawsuit against ADC employees in  
5 their official capacity for *prospective* declaratory and injunctive relief, see *Coalition to*  
6 *Defend Affirmative Action v. Brown*, 674 F.3d 1128, 1134 (9th Cir. 2012), but this  
7 exception is intended to prevent continuing violations of federal law and “does not permit  
8 judgments against state officers declaring that they violated federal law in the past.” *Puerto*  
9 *Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993); see also  
10 *Hindes v. F.D.I.C.*, 137 F.3d 148, 166 (3d Cir. 1998).

11       Plaintiff is advised that not every claim by a prisoner relating to inadequate medical  
12 treatment states a violation of the Eighth Amendment. To state a § 1983 medical claim, a  
13 plaintiff must show (1) a “serious medical need” by demonstrating that failure to treat the  
14 condition could result in further significant injury or the unnecessary and wanton infliction  
15 of pain and (2) the defendant’s response was deliberately indifferent. *Jett v. Penner*, 439  
16 F.3d 1091, 1096 (9th Cir. 2006).

17       “Deliberate indifference is a high legal standard.” *Toguchi v. Chung*, 391 F.3d  
18 1051, 1060 (9th Cir. 2004). To act with deliberate indifference, a prison official must both  
19 know of and disregard an excessive risk to inmate health; “the official must both be aware  
20 of facts from which the inference could be drawn that a substantial risk of serious harm  
21 exists, and he must also draw the inference.” *Farmer v. Brennan*, 511 U.S. 825, 837 (1994).  
22 Deliberate indifference in the medical context may be shown by a purposeful act or failure  
23 to respond to a prisoner’s pain or possible medical need and harm caused by the  
24 indifference. *Jett*, 439 F.3d at 1096. Deliberate indifference may also be shown when a  
25 prison official intentionally denies, delays, or interferes with medical treatment or by the  
26 way prison doctors respond to the prisoner’s medical needs. *Estelle v. Gamble*, 429 U.S.  
27 97, 104-05 (1976); *Jett*, 439 F.3d at 1096.

28       . . . .

1           Deliberate indifference is a higher standard than negligence or lack of ordinary due  
2 care for the prisoner's safety. *Farmer*, 511 U.S. at 835. "Neither negligence nor gross  
3 negligence will constitute deliberate indifference." *Clement v. California Dep't of Corr.*,  
4 220 F. Supp. 2d 1098, 1105 (N.D. Cal. 2002); *see also Broughton v. Cutter Labs.*, 622 F.2d  
5 458, 460 (9th Cir. 1980) (mere claims of "indifference," "negligence," or "medical  
6 malpractice" do not support a claim under § 1983). "A difference of opinion does not  
7 amount to deliberate indifference to [a plaintiff's] serious medical needs." *Sanchez v. Vild*,  
8 891 F.2d 240, 242 (9th Cir. 1989). A mere delay in medical care, without more, is  
9 insufficient to state a claim against prison officials for deliberate indifference. *See Shapley*  
10 *v. Nevada Bd. of State Prison Comm'rs*, 766 F.2d 404, 407 (9th Cir. 1985). The  
11 indifference must be substantial. The action must rise to a level of "unnecessary and  
12 wanton infliction of pain." *Estelle*, 429 U.S. at 105.

13           Plaintiff should take note that to state a claim under § 1983 against a private entity  
14 performing a traditional public function, such as providing medical care to prisoners, a  
15 plaintiff must allege facts to support that his constitutional rights were violated as a result  
16 of a policy, decision, or custom promulgated or endorsed by the private entity. *See Tsao*  
17 *v. Desert Palace, Inc.*, 698 F.3d 1128, 1138-39 (9th Cir. 2012); *Buckner v. Toro*, 116 F.3d  
18 450, 452 (11th Cir. 1997). A plaintiff must allege the specific policy or custom and how it  
19 violated his constitutional rights. A private entity is not liable merely because it employs  
20 persons who allegedly violated a plaintiff's constitutional rights. *See Tsao*, 698 F.3d at  
21 1138-39; *Buckner*, 116 F.3d at 452.

22 **III. Warnings**

23           **A. Release**

24           If Plaintiff is released while this case remains pending, and the filing fee has not  
25 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court  
26 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or  
27 (2) file a non-prisoner application to proceed in forma pauperis. Failure to comply may  
28 result in dismissal of this action.

1           **B.     Address Changes**

2           Plaintiff must file and serve a notice of a change of address in accordance with Rule  
3        83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
4        relief with a notice of change of address. Failure to comply may result in dismissal of this  
5        action.

6           **C.     Possible Dismissal**

7           If Plaintiff fails to timely comply with every provision of this Order, including these  
8        warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d  
9        at 1260-61 (a district court may dismiss an action for failure to comply with any order of  
10      the Court).

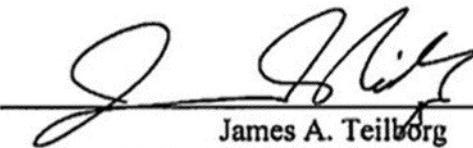
11       **IT IS ORDERED:**

12       (1)     Plaintiff's Complaint (Doc. 9) is **dismissed** for failure to comply with Rule  
13      8 of the Federal Rules of Civil Procedure. Plaintiff has **30 days** from the date this Order is  
14      filed to file a first amended complaint in compliance with this Order.

15       (2)     If Plaintiff fails to file an amended complaint within 30 days, the Clerk of  
16      Court must, without further notice, enter a judgment of dismissal of this action without  
17      prejudice and deny any pending unrelated motions as moot.

18       (3)     The Clerk of Court must mail Plaintiff a court-approved form for filing a  
19      civil rights complaint by a prisoner.

20       Dated this 8th day of April, 2020.

21  
22  
23  
24         
25       \_\_\_\_\_  
26       James A. Teilborg  
27       Senior United States District Judge  
28

## **Instructions for a Prisoner Filing a Civil Rights Complaint in the United States District Court for the District of Arizona**

1. **Who May Use This Form.** The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. **The Form.** **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. **Your Signature.** You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. **The Filing and Administrative Fees.** The total fees for this action are \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. **Original and Judge's Copy.** You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. **Where to File.** You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$400 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. **Change of Address.** You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. **Certificate of Service.** You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. **Amended Complaint.** If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. **Exhibits.** You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. **Letters and Motions.** It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

**HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

**Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

**Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

**Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. **Counts**. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. **Issue Involved**. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked "Other," you must identify the specific issue involved.
3. **Supporting Facts**. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. **Injury**. State precisely how you were injured by the alleged violation of your rights.
5. **Administrative Remedies**. You must exhaust any available administrative remedies before you file a civil rights complaint. *See 42 U.S.C. § 1997e.* Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

**Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

**SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

**FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number \_\_\_\_\_

Place of Confinement \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

\_\_\_\_\_,  
(Full Name of Plaintiff)

Plaintiff,

v.

(1) \_\_\_\_\_,  
(Full Name of Defendant)

(2) \_\_\_\_\_,

(3) \_\_\_\_\_,

(4) \_\_\_\_\_,

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

**CASE NO. \_\_\_\_\_**  
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

- Original Complaint  
 First Amended Complaint  
 Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

- 28 U.S.C. § 1343(a); 42 U.S.C. § 1983  
 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).  
 Other: \_\_\_\_\_.

2. Institution/city where violation occurred: \_\_\_\_\_.

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_ . The first Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_ . The second Defendant is employed as:  
as: \_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_ . The third Defendant is employed  
as: \_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_ . The fourth Defendant is employed  
as: \_\_\_\_\_ at \_\_\_\_\_ .  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner?  Yes  No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

#### **D. CAUSE OF ACTION**

## COUNT I

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

- 3. Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

- 4. Injury.** State how you were injured by the actions or inactions of the Defendant(s).

- ## **5. Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count I?  Yes  No

c. Did you appeal your request for relief on Count I to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

- 3. Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

- 4. Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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- ## **5. Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count II?  Yes  No

c. Did you appeal your request for relief on Count II to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

### COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.  
\_\_\_\_\_.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

- 4. Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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5. **Administrative Remedies.**

  - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
  - b. Did you submit a request for administrative relief on Count III?  Yes  No
  - c. Did you appeal your request for relief on Count III to the highest level?  Yes  No
  - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

**If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.**

### **E. REQUEST FOR RELIEF**

State the relief you are seeking:

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I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
DATE

SIGNATURE OF PLAINTIFF

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(Name and title of paralegal, legal assistant, or  
other person who helped prepare this complaint)

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(Signature of attorney, if any)

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(Attorney's address & telephone number)

### **ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.